

FAX TRANSMITTAL

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Date: January 18, 2000

To: Ms. Carol Browner, Administrator

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cc: The Honorable Ted Stevens, U.S. Senator
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The Honorable Frank Murkowski, U.S. Senator
202.224-4349
The Honorable Don Young, U.S. Representative
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Mr. Chuck Clarke, U.S. Environmental Protection Agency, Region X
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Mr. Charlie Curtis, NANA Regional Corporation.
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Ms. Helvi Sandvik, NANA Development Corporation
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Mr. John Key, Comino Alaska, General Manager
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Mr. John Katz, Office of the Governor, Washington D.C.
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From: Governor Tony Knowles

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January 14, 2000

Ms. Carol Browner, Administrator
U.S. Environmental Protection Agency
401 M Street SW, Room 1200 ST, A-100
Washington, DC 20460

Dear Ms. Browner:

The Alaska Department of Environmental Conservation (ADEC) recently issued a Prevention of Significant Deterioration permit to Cominco Alaska to expand its operations at the Red Dog Mine in Northwest Alaska. The permit was the result of a year and a half review and analysis which concluded Cominco should use low NOx control technology on a new diesel engine needed for the facility expansion, as well as retrofit its current six diesel generators with low NOx controls. I am persuaded that, under Alaska's permit as written, significant deterioration of the environment will be prevented, and more control will be required of this source than the Environmental Protection Agency (EPA) or any other state has required of similar sources in similar circumstances. EPA, Region X, issued a "Finding of Noncompliance and Order" against ADEC to block the permit because EPA prefers a different technology be used to control emissions from the one new engine. I am writing to request your review of EPA's Order.

The Red Dog Mine is a surface zinc and lead ore mining operation in an extremely remote location in northwest Alaska. The closest village is 40 miles away. Cominco operates this mine as a joint venture with the NANA Native Regional Corporation. The mine is the largest employer, and the only sizeable private employer, in the entire Northwest Arctic Borough of 11 villages.

Because of its remote location, the mine must generate its own power with diesel engines. Additional mineral reserves have been discovered and Red Dog is increasing ore production, necessitating a power supply increase through the addition of a new diesel engine.

Alaska's proposed permit, which EPA did not comment upon during the public comment period, found that "Best Available Control Technology" (BACT) would be for Cominco to install low NOx technology on all existing engines in addition to the new engine. While the permit would allow consumption of almost all the NOx increment, there is no other actual or likely airshed user, and the highest modeled mine emissions amount to less than 25 percent of the ambient air quality standard for NO₂.

After the public comment period closed Region X, expressed its view that the state should have found BACT to be the use of selective catalytic reduction (SCR) for the one new diesel

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engine. Use of SCR would yield lower NOx emissions than would use of low NOx technology on the new engine, but after extensive discussions with EPA and Cominco, ADEC rejected SCR due to:

- the high cost of SCR at \$2100 per ton of NOx removed (Cominco estimated removal at \$3750 to \$5950 per ton);
- the lack of precedence in the U.S. for the use of SCR on diesel engines at these cost levels in locations other than ozone and NO₂ nonattainment areas;
- the fact that the cost of installing and using SCR would be twice the rate found acceptable for past Alaska NOx BACT determinations for turbines;
- the health and environmental risks associated with transporting and using ammonia to support the SCR technology; and
- concern over the precedent that selection of SCR as BACT would set for Alaska's many remote villages, which rely on comparable engines for their electricity.

Although there are many sound reasons for the state to choose low NOx technology over SCR, the key point to remember is that the use of SCR instead of low NOx technology on the new engine would achieve no significant gain in either air quality or consumption of the increment.

ADEC has had an EPA-approved PSD permitting program since 1984. Once EPA approves a state PSD program, EPA's own guidance for making BACT determinations states that the decision of what control technology to require is the state's to make. Over the years, ADEC has made countless decisions on what constitutes BACT for new and modified sources. This is the first instance, to my knowledge, where EPA has questioned a BACT decision made by ADEC, and asserted its authority under the Clean Air Act (CAA) to veto that decision.

While the subject of the disagreement is a narrow one, and the environmental consequences insignificant, the discussions and negotiations between our agencies have been prolonged and frustrating. ADEC delayed issuing the permit for five months while it tried to resolve this issue with Region X. Over the last month, the ADEC commissioner and the deputy regional administrator have been working to find a way to allow Cominco to operate under the permit while still reserving this final issue. ADEC proposed issuing the permit (and, in fact, ultimately did so) with a six month delayed effective date for the one diesel engine in question so that a dispute resolution process could take place. ADEC even offered to issue the permit simultaneously with an EPA order to avoid administrative "brinkmanship," where one agency would act first to gain a legal or procedural advantage by the timing of the EPA order or the permit issuance. Yet, that seems to be precisely what EPA has done.

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In summary, EPA's order is extremely troubling. First, I question whether EPA has the authority under the CAA to veto the BACT determination of a state with an approved PSD program. Second, I question EPA's priorities in elevating an environmentally insignificant BACT decision to such a level. Third, I am concerned how states can manage consistent, predictable permit programs when EPA micromanages BACT decisions at the eleventh hour to require "pet" technologies when other solutions may be just as effective in protecting the environment. And, fourth, I cannot understand the actions of EPA attorneys in insisting upon a process which polarizes the state and EPA, despite our mutual efforts to avoid such a conflict.

Imposing EPA's preferred NOx control technology will not improve the environment surrounding the Red Dog mine, but it will impose a considerable economic burden on Cominco and most certainly will undermine the autonomy of ADEC's PSD program. EPA's intervention in an approved state's PSD permit decision, assuming EPA even has the authority to intervene, should be used in situations where public health or the environment will actually benefit in some tangible way. The effect of EPA's order in this case is to divert our collective resources away from protecting the environment, to instead arguing over our respective authorities under the CAA. I do not think that is a wise allocation of our scant resources.

I hope that you look into this matter and reconsider whether the recent order is both necessary and appropriate. Thank you.

Sincerely,


Tony Knowles
Governor

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